

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUN - 8 2018

**Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**

DARIN JAMES,

Petitioner,

v.

EXECUTIVE OFFICE OF
UNITED STATES ATTORNEYS,

Respondent.

Civil Action No.: 18-cv-01099-UNA

MEMORANDUM OPINION

This matter is before the Court on its initial review of petitioner's *pro se* "complaint" and application for leave to proceed *in forma pauperis*. Petitioner alleges that, during the course of his underlying trial and conviction, the lead Assistant United States Attorney engaged in prosecutorial misconduct. Specifically, petitioner alleges that the prosecutor failed to execute required oaths of office and operated without official authorization. Petitioner states that his "...criminal judgment was obtained without authority" and he seeks release from incarceration.

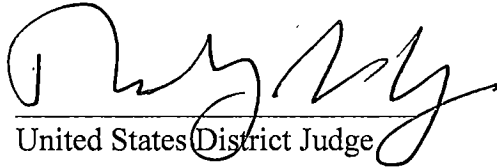
Therefore, this Court must construe the complaint as petition to vacate, set aside or correct sentence under 28 U.S.C. § 2255. It appears that petitioner was convicted and sentenced under 18 U.S.C. §§ 922(g)(1) and 924(e) of the Armed Career Criminal Act (ACCA) in the District Court for the Southern District of Florida. He now challenges that conviction.

To the extent that a remedy is available to the petitioner, his claim must be addressed to the sentencing court in a motion under 28 U.S.C. § 2255. See *Taylor v. U.S. Bd. of Parole*, 194 F.2d 882, 883 (D.C. Cir. 1952); *Ojo v. Immigration & Naturalization Serv.*, 106 F.3d 680, 683 (5th Cir. 1997). Section 2255 provides that:

[a] prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

28 U.S.C. § 2255(a).

Therefore, the petitioner has no recourse in this federal district court, and the petition ["complaint"] will be dismissed. *Id.* An Order accompanies this Memorandum Opinion.


United States District Judge

Date: May 31, 2018